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# Building a Better Bureaucrat

Joshua Stein

**G**overnment mires itself in tedious detail and process, unable to act, unable to decide. When it does reach a decision, that decision itself includes too much detail, too much process. Many of government's requirements produce ridiculous results when applied to specific cases. Ultimately, government accomplishes almost nothing, extremely slowly, and imposes tremendous burdens along the way. It happens again and again. The outcome is so systematic that there must be something about government that just does not work right.

The solution? According to Philip K. Howard in *The Death of Common Sense* (Random House, 1994), we need to build a better bureaucrat—a bureaucrat who can make decisions, exercise judgment, and grant exceptions when the general rule would produce the wrong result in a specific case. And government needs to express its rules in broad brushstrokes, rather than in the picayune detail that over the past few decades has produced, in the United States Code, the *Federal Register*, and supporting documents, the world's thickest instruction manual.

Justice Stephen Breyer, the most recent appointee to the Supreme Court, considers similar issues in his more scholarly book, *Breaking the Vicious Circle: Toward Effective Risk*

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*Regulation* (Harvard University Press, 1993). Focusing on regulations designed to reduce cancer-related risks, he finds that they are often random, pointless, driven more by public relations concerns than by sound public policy, and inconsistently excessive.

Like Howard, Breyer believes that bureaucrats need more discretion to make judgments, but he emphasizes the process of developing rules rather than the process of applying them. Breyer would create an elite corps of prestigious, credible, respected career officials who would balance various health and safety risks and the costs and benefits of various responses to those risks. Breyer's super-agency would dispassionately analyze scientific evidence and carefully consider the dollar cost of likely lives saved by any particular regulation, in comparison to the efficacy of other regulations. It would be above the political and publicity pressures that drive so much regulatory activity today.

Both Howard and Breyer share a confidence in government—"good government," at least—that Howard's own examples seriously call into question. Both Howard and Breyer seem to believe that government officials, if released from their various shackles, could and would consistently reach intelligent and responsible results. Both writers are extremely optimistic. The issue is whether they are correspondingly naive.

Although Howard's book, in particular, in

many ways lays the foundation to argue that government has simply grown too large and lost the ability to chew as much as it has bitten off, Howard for the most part makes no such argument. His objection is merely to the means by which modern government acts.

Similarly, Breyer goes out of his way to give the Environmental Protection Agency high marks for its performance in controlling environmental risks; most of its regulatory initiatives are sound and appropriate, he says. Only some occasionally go too far.

These books, particularly *The Death of Common Sense*, are ultimately just arguments for greater flexibility in administrative law—arguments that, if made in a law review article, would probably not have attracted any attention at all.

### Howard on Bureaucratic Discretion

Howard presents a long series of wonderful examples of government out of control. In each of his parables, well-meaning legislators and regulators identified some problem and tried to solve it. In each case, their solution ultimately produced absurd and unreasonable results. Usually, that happened because government's solution was too detailed and too specific, leaving too little room for rational consideration of specific cases. When government's solution was mindlessly applied, it often produced mindless results. The pattern is remarkably consistent. (Some of Howard's best parables are summarized on page 27.)

To a reader skeptical about government, Howard's parables all point in one direction: we have too much government, doing too many things, obsessed with achieving perfection in the details, while ultimately achieving little beyond perfect absurdity and frustration. Instead of inferring from his parables, as Howard does, that bureaucrats need to be given greater flexibility, a skeptical reader would argue that his parables point to a more general conclusion: government is incapable of dealing with many of the issues addressed by modern regulation. Government paints itself into the strange corners that Howard describes not so much because bureaucrats need more freedom, but because when government tries to do too much, absurd results are inevitable. The governmental and regulatory process by definition involves requiring people to do things that they otherwise would not do. In comparison, if government is merely telling people to do what comes naturally, then its involvement is superfluous.

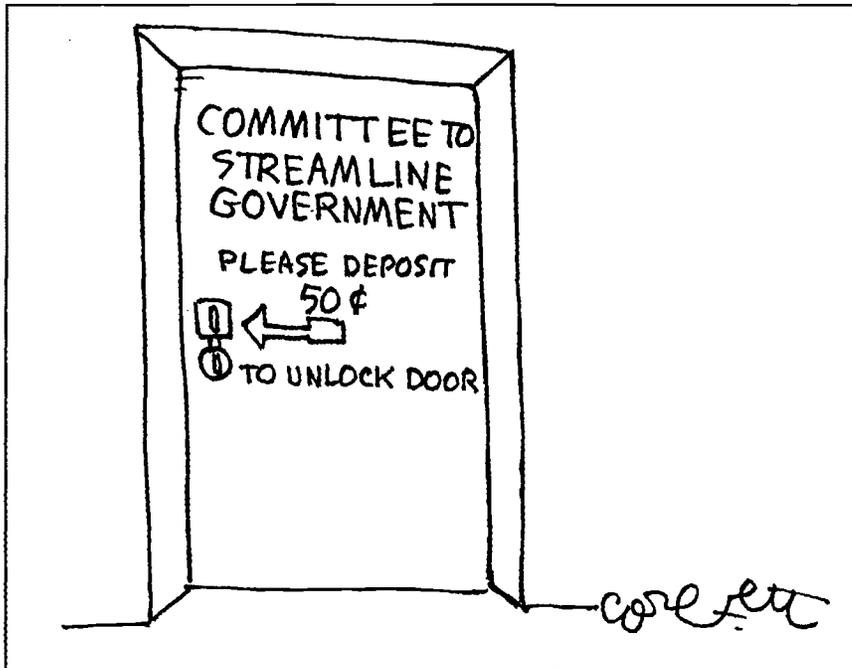
To the extent that, at one extreme, government's requirements are of limited scope and are tied to prevention of direct and obvious injury—for example, laws against murder and theft—they tend not to produce results of the type Howard describes. To the extent that government tries to go further—and, at another, more modern extreme, tries to dictate all the elements of a perfectly safe workplace or an ideal building, or how much a property owner should charge a tenant—its requirements become increasingly complex and decreasingly intuitive.

Simply because people, hence legislators and administrators, are imperfect, government will never be able to properly consider everything or consistently produce the right result over the wide range of possible circumstances out there in the real world. The mere effort of trying may be overwhelming. And as government becomes more ambitious, trying to control more and more of the world, it encounters more room for error and produces more absurd outcomes in more areas. Howard describes the process perfectly. But then, instead of concluding that government substantively tries to do too much, he would merely change the procedures a bit.

Consider, for example, Howard's opening parable: the story of how Mother Teresa wanted to acquire and renovate an abandoned building in New York to house the homeless. Mother Teresa was ready to start work when she learned that the city would require her to install an elevator as part of the job, because the building code requires elevators in all multistory buildings. Nowhere did the building code permit any flexibility. No one in city government had any power to waive the elevator requirement under any circumstances. Ultimately, Mother Teresa abandoned her project because she could not afford the extra \$100,000 to build an elevator that was neither needed nor wanted.

Howard uses the Mother Teresa parable primarily to support the proposition that regulations need to be flexible. In Howard's perfect regulatory regime, someone at the New York City Department of Buildings would have been able to consider Mother Teresa's situation. That bureaucratic wise man would then have the authority to decide that in this particular instance no elevator would be required.

Although Howard favors the exercise of judgment, he envisions that government officials, rather than private decisionmakers, will make the judgments. He briefly acknowledges that the people



Mother Teresa intended to house would have been happy just to have a roof over their heads, with or without an elevator. But he never questions the fundamental issue of whether the building code should require elevators and a multitude of other detailed elements. He never shows why the installation of an elevator should be a bureaucrat's decision—albeit in Howard's perfect world, one based on informed and reasoned judgment—rather than the decision of the owner of the building.

A more satisfying lesson might be drawn from the Mother Teresa parable. Howard misses the opportunity to take the next step and argue that substantive building codes—a good idea at some level—just might have been taken too far, along with so many other regulatory ideas in modern government. What started out as a prohibition on constructing houses from kindling has been taken far beyond the case where one property owner might endanger his neighbors through carelessness or the use of improper building materials. Instead, the code sets rigid requirements, such as Mother Teresa's elevator, about which reasonable people might differ. Howard would accept such requirements, but allow bureaucrats to waive them by exercising judgment.

Howard misses the opportunity to suggest that perhaps the best person to judge the need for an elevator in Mother Teresa's building—a construction issue very different from whether a house is built of kindling—just might be Mother Teresa herself.

Perhaps she should be left free to make that judgment without the assistance of bureaucrats, even well-meaning and intelligent bureaucrats. Perhaps she should be allowed to make her decision based on her own evaluation of her customers' requirements and the market in which she plans to provide housing.

Howard might have argued that the building code should distinguish between (1) areas in which the community has a legitimate interest in imposing construction specifications on an unwilling property owner, such as forbidding the use of kindling as construction material, in order to protect neighboring structures from fire;

and (2) areas in which property owners should be left to exercise their own judgment, such as (presumably) whether a multistory building needs an elevator. If Mother Teresa's installation of an elevator is not absolutely essential to the public good—as Howard implies by suggesting that the requirement should have been waived—then there may be no compellingly sound reason the code should have required it in the first place. The decision should indeed have been left to someone's judgment, but why a bureaucrat's?

On the other hand, if an elevator is truly essential—for example, hypothetically, because without an elevator, the building will collapse and damage neighboring buildings—then why should a bureaucrat have the power to waive the requirement? If there is a reason for the requirement, a reason important enough to justify requiring builders to spend very substantial sums on elevators, then presumably that reason did not vanish merely because the property happened to be owned by Mother Teresa.

But Howard does not ask such questions. He accepts as good the massive body of law and codes that has accreted over the past few decades. At no point does he argue that modern government seems to have lost the ability to distinguish between the essential and the merely desirable.

Just about any requirement, however extreme, can be justified under some circumstance.

**HOWARD'S PARABLES: MODERN GOVERNMENT AT WORK**

The following chart summarizes many of the parables that Philip K. Howard offers in *The Death of Common Sense*.

<b>The Problem or Risk</b>	<b>Government's Solution</b>	<b>The Absurd Result</b>
Two simultaneous fires in the same suburban neighborhood	Streets wide enough so that two fire trucks can pass in opposite directions at 50 mph	Less human interaction in modern suburban neighborhoods
Danger of fire in schools	Restrictions on posting paper on classroom walls	Teachers cannot post much children's artwork
Benzene emissions	Expensive filters in smokestacks	More benzene could be contained at a much lower cost at the loading docks
Toxic contamination of land	Sites must be cleaned up to the point where children can eat dirt safely	Manufacturers choose green-field sites over dealing with contamination
General workplace safety	Detailed regulations and paperwork	Changing a process that has worked well produces risks in itself
Employee asphyxiation in enclosed spaces	OSHA venting and alarm requirements	Brick manufacturer welded shut perfectly safe storage compartments and unwelded them annually for cleaning— a process more dangerous than the original status quo
Employees unaware of hazards	Signs and "Material Safety Data Sheets" for any hazardous substance	Signs identifying sand as hazardous; small companies cited by OSHA for not having MSDS forms for Windex and Joy; another for no warning label on table salt
Hazardous substances again	Harmless lime sludge deemed hazardous because of pH level	Utility that wanted to use lime sludge for pollution control refused to accept it
Danger of fire in hotels	Burdensome enclosed-stairway requirements for two-story bed-and-breakfasts	Less consumer choice when small bed-and-breakfasts go out of business
Dangerous day-care centers	Regulations that prescribe the perfect day-care center	Consumers choose unlicensed day-care because they cannot afford \$4,000 annual tuition
Defective and dangerous buildings	"Mandated perfection" in building codes	Inability to build low-cost or single-room-occupancy housing
Unsanitary cheese	Cheese-making equipment must be stainless steel	Specialty cheese-maker using European techniques to supply high-end New York restaurants cannot operate

Government always seems to find that justification. In another of Howard's parables, for example, bureaucrats restricted the posting of children's artwork on classroom walls because it was possible that artwork might burn. Similarly, a bureaucrat seeking to create the perfect building code to create perfect buildings for a perfect world could probably think of a half a dozen reasons why multistory buildings need elevators, among them fire risk, access for the disabled, sanitation, other safety concerns, and so on.

However, government does not seem to know when to stop. If it can produce a rationale for a regulation, then it produces the regulation and takes it as far as it will go, regularly producing absurdities of the type that Howard describes so well. So many of the requirements imposed by government seem untempered by concern for what makes sense or by a rational balancing of risks avoided versus costs incurred or considerations of adequacy versus perfection.

In the context of day-care regulation, Howard does recognize that government, substantively, may have gone too far. Government has tried to create through regulation the perfect day-care center, rather than one that is merely adequate: "Not surprisingly, what they dream up, and then turn into law, is their view of the ideal facility." It is as if, he says, the regulators examined the day-care process and tried to come up with rules for everything, whether or not those rules were necessary or appropriate. Hence government imposes excessive qualifications for teachers; requirements for more extra changes of clothes than seem necessary; requirements for perfect cleanliness; citations for cobwebs on the ceiling; and requirements to bolt harmless pieces of children's furniture to the wall so they do not fall, although they never have.

In general, though, Howard does not question the scope of modern regulation. He would only cut some of it back at the edges, through a case-by-case introduction of common-sense waivers. Although Howard would allow the citizen to apply to intelligent bureaucrats for exemptions in particular cases, it would still be the intelligent bureaucrat's decision. Howard misses or rejects the larger conclusion, an obvious inference from so many of his parables, that much of what government has undertaken has gone too far to begin with.

Howard also makes two other important points about the extent to which law has grown out of con-

trol in modern America. First, he believes legislators have granted too many groups of people too many "rights," an approach that gives the protected group a specially privileged status. As rights proliferate, government becomes incapable of balancing the needs of particular groups—the holders of the "rights" trump cards—against any other public policy considerations whatsoever. His favorite example is that of public toilets in New York City, where the disabled lobby demanded that all such toilets be wheelchair-accessible—and thus effectively prevented the city from installing any public toilets at all. Again, too much law produces rigidity and absurd results.

Second, Howard believes that whenever government seeks to do anything, it is so concerned about process that the most routine task becomes a mountain of expensive paperwork. Again, he cites a whole string of wonderful examples, mostly from government contracting and bidding. He concludes that government has so over-regulated its own processes that it has become almost incapable of making decisions or taking action. As a proponent of activist government, Howard deplors government's self-imposed inability to act. He notes with regret that governmental paralysis plays into the hands of those who believe government should do less. It also indirectly causes some of the excessive regulatory detail that Howard believes needs to be replaced with bureaucratic discretion.

### **Breyer on Risk Regulation**

What is it about government regulation that repeatedly produces the absurd outcomes that Howard demonstrates so well? Breyer takes up this issue in *Breaking the Vicious Circle* when he considers how government decides what requirements to impose in the first place. He also tries to explain why so many of those requirements end up looking so strange the morning after.

Breyer believes that the regulatory process, as applied to "small" health and safety risks—risks that are uncertain and hard to identify and understand—suffers from three fundamental problems. These problems produce unreasonable results of the type that show up so consistently in Howard's parables. They are "tunnel vision," "random agenda selection," and "inconsistency."

Regulators often suffer from "tunnel vision," Breyer believes, because they miss the larger picture of how any particular risk fits into the overall range of risks and dangers in the world. Instead, they

focus merely on the particular problem before them and devote inordinate attention and resources to achieving a solution as close to perfection as they can. Breyer calls this “the last 10 percent” problem—in which bureaucrats, instead of correcting the problem enough to produce a reasonably safe outcome, insist on solving as close to all of it as they possibly can. That would be just fine in a world of unlimited resources, Breyer suggests, but in the real world he questions the wisdom of trying to achieve complete perfection, regardless of cost, in solving whatever problem happens to be on the particular regulator’s radar screen.

Congress and the regulators put themselves in that position, Breyer believes, in part by how they respond to the uncertainty inevitable in any scientific attempt to understand small risks. In each case they assume the worst and proceed accordingly. For example, if animal tests show cancer after absurdly large doses of a chemical are given to the subject for an extended period, then the government will assume linear proportionality between a lower dose and a lower incidence of cancer—not necessarily a reasonable assumption, merely a “conservative” one. But such assumptions often support burdensome and expensive regulations that in the long run save few lives at high cost.

The process by which regulators decide what to be concerned about is, in Breyer’s words, “random agenda selection.” By this he means a combination of publicity, congressional attention, agitation by “public interest” organizations, and purely random influences that collectively determine what problem will occupy the regulators’ attention in any particular week.

Because the regulatory agenda is purely random, there is no reason to think it will deal with risks of similar magnitude in similar ways. And it does not. Hence Breyer’s third problem: “inconsistency.” Breyer tries to compare various health and safety regulations by estimating the “cost per life saved” by the particular regulation and then comparing that cost to the cost imposed by other regulations. He finds wildly disparate results. At one extreme, the EPA’s ban on various asbestos-based construction products would cost \$250 million to save seven or eight lives over 13 years. At the other extreme, disease-screening and vaccination programs might save lives at the cost of about \$50,000 to \$70,000 each. In comparison, when labor unions bargain about safety rules, they seem to attach a value of about \$5 million to

\$6 million to each “statistical life” expected to be saved by a particular measure.

The three regulatory problems that Breyer summarizes occur again and again as government identifies and deals with a whole series of health and safety risks. The ritual is so predictable that it can with little effort be condensed into an exercise in filling in blanks. (See the template on pages 31-32)

Breyer would rationalize risk regulation by centralizing it in an elite super-agency with the power and prestige to go beyond the three fundamental problems that Breyer identifies in risk regulation as it exists today. Like Howard’s idealized building department officials, Breyer’s career bureaucrats would be able to exercise judgment, see beyond the specific legal issue immediately before them, and reach reasonable results under the circumstances. They would be able to assure that risk regulation, considered as a whole, produces consistent results that are not absurd or mindless.

### An Alternative Perspective

Both Breyer and Howard believe that it is possible for government officials to exercise sound judgment and reach reasonable accommodations of costs and benefits when they make decisions. The fundamental nature of government and government service may, however, be irreconcilably inconsistent with any form of economically rational decisionmaking. Government officials operate within an incentive structure that has little to do with comparing costs and expenses and ultimately producing a profit—the fundamental decisionmaking model that works so well for all business activities.

Ludwig von Mises made this point in 1944, in his book *Bureaucracy* (republished 1983, Libertarian Press Inc.). *Bureaucracy* contains some timeless and unfortunately still valid comments on the nature of bureaucrats, their mindsets, and how they work.

Von Mises believed, of course, that the private profit motive offers an ideal basis for most decisionmaking, because the decisionmaker faces the monetary consequences of his own decisions and learns accordingly. Bureaucratic decisionmaking, however well intentioned, faces no such discipline. Mises wrote: “The objectives of public administration cannot be measured in money terms and cannot be checked by accountancy methods. . . . If the head of the whole Bureau were to leave his subordinate station chiefs a free hand with regard to money expen-

diture, the result would be a large increase in costs as every one of them would be zealous to improve the service of his branch as much as possible. In public administration there is no connection between revenue and expenditure . . . [and] no market price for achievements. This makes it indispensable to operate public offices according to principles entirely different from those applied under the profit motive." For "expenditure," substitute the word "regulation," and von Mises' observations would apply just as well to the problems that Howard and Breyer recognize, but believe can be eliminated simply by improving the bureaucrats and how they do their jobs.

Mises argued that the very nature of government precludes organization and decisionmaking along businesslike lines. Almost by definition, bureaucratic management will be "wasteful, inefficient, slow, and rolled up in red tape." Even if entrepreneurs were placed in charge of government bureaus, von Mises argued that they would do no better than civil-service bureaucrats; such is the nature of the beast.

Mises relied heavily on the fact that bureaucrats are given, and expected to enforce, "detailed rules and regulations fixed by the authority of a superior body." In a democracy, that authority rests in the people and their elected representatives; "It is not for the personnel of the administration and for the judges to inquire what should be done for the public welfare and how the public funds should be spent." Once the decision is made, the bureaucrats are merely expected to implement it.

Both Breyer and Howard see a different role for their idealized bureaucrats. Breyer would transfer much of the initial decisionmaking on risk regulation from the elected representatives to the elite super-agency; Howard would leave the initial decision to the elected representatives and their administrative agencies, but give the front-line officials who enforce it greater discretion and flexibility.

Both ideas are inconsistent with Mises' limited view of bureaucratic authority. Mises would argue that giving greater authority to bureaucrats would bring out an even worse side of them: the exercise of potentially unrestrained power, power inconsistent with democracy. The fact that rules and regulations tie a bureaucrat's hands and thereby limit what the bureaucrat can do is essential to controlling his power and assuring that ultimate power remains in the electorate and its elected representatives. "The need to limit the discretion of subordinates is present in every organization," Mises argued. "Any

organization would disintegrate in the absence of such restrictions." The detailed rules and regulations that sometimes produce absurd results are also essential to controlling bureaucrats; give them greater discretion and they will seize greater power. Breyer and Howard both acknowledge the argument, but neither satisfactorily responds to it.

## Conclusion

Howard somehow believes, against his own evidence, that bureaucrats with discretion and flexibility will produce correct results by exercising greater judgment and wisdom than hitherto evidenced in the civil service. He acknowledges concern about unbridled discretion, noting that some regulations are so detailed that they give bureaucrats arbitrary discretion to do as they please. That outcome concerns Howard, even though it is ultimately his prescription for the entire federal bureaucracy.

Breyer would rely on more than mere hope and try to attract the best and the brightest of the federal civil service to his risk-management super-agency, then give them broad authority to exercise rational judgment. That, he believes, would produce rational and consistent results.

Although each author does an admirable job of describing the problem, Breyer's and Howard's solutions fall short. It is easier to identify a problem and its causes than to solve it. In an imperfect and complicated world, most solutions carry with them new problems and new complexities, sometimes worse than the problem originally sought to be solved. That principle, which helps to explain so many of the absurd outcomes that Howard points to in his book, also explains why it is easier for Breyer and Howard to identify and analyze the problem than to try to solve it.

Ultimately, the answer probably lies in a smaller government taking on fewer and more fundamental tasks, but bringing to those fewer tasks some of the ideas that Breyer and Howard suggest. This needs to be done in a way that leaves bureaucrats firmly under the control of elected officials. The solution may ultimately require a series of experiments in a series of areas—a process that 50 state governments may handle better than a single federal government. More than at any time in the last few decades, America's voters may be in the mood to start that process today.

## Modern Risk Regulation: A Template

Regulation of health and safety risks in the United States follows a familiar pattern, much of which is described by Stephen Breyer in *Breaking the Vicious Circle: Toward Effective Risk Regulation*. That pattern has become so predictable—as one “public-interest” group or another identifies new risks to regulate, and new crises explode in the media—that it can almost be set up as a template, with the user invited to fill in the blanks.

As an experiment and a public service, the following risk-regulation template is offered as a way to further standardize the modern risk regulation process. The template will work for any health or safety risk, although the blanks would of course need to be filled in differently each time, and timing and details will vary. The template partly reflects and summarizes ideas in Breyer’s book, but the author has added some ideas of his own for which Breyer should not be blamed.

*Regulation’s* readers may photocopy this template for convenient use.

### The \_\_\_\_\_ (1) Crisis: The Public Interest Triumphs Again

#### Instructions

- (1) Fill in the name of any substance, activity, or industry. The “safer,” the better.
- (2) Fill in the name of any academic or research institution, preferably prestigious.
- (3) Fill in an adverse health effect, preferably cancer.
- (4) Choose a suitable federal agency or three or four random letters to become the acronym for a new federal agency.
- (5) Fill in the name of any member of Congress likely to face significant opposition in the next election.
- (6) Fill in the name of any congressional committee on which the hypothetical representative is a member.
- (7) Fill in any major media event likely to distract large numbers of television viewers or reporters, such as the O.J. Simpson trial.

*Day 1.* New scientific studies released by respected researchers at \_\_\_\_\_(2) cast new doubts on the environmental and health safety of \_\_\_\_\_(1).

The researchers reported that tests on rats and mice showed that \_\_\_\_\_(1) can potentially cause \_\_\_\_\_(3) over long periods. The tests involved applying doses of \_\_\_\_\_(1) equal to approximately 10,000 times the amount of \_\_\_\_\_(1) that rats and mice would typically ingest over their lifetime.

*Day 3.* Representatives of the \_\_\_\_\_(1) industry denied that \_\_\_\_\_(1) caused \_\_\_\_\_(3). They also noted that other studies had repeatedly shown that \_\_\_\_\_(1) was safe. But the researchers at \_\_\_\_\_(2) questioned the validity of those studies and said the issues and risks were too important to take chances.

*Day 6.* The government official in charge of the federal \_\_\_\_\_(4) agency said that the federal government had not previously considered any safety risks or protective action with respect to \_\_\_\_\_(1). The agency head said, however, that if the research reports demonstrated any risk of \_\_\_\_\_(3), the federal government would act quickly and decisively to protect the public.

*Day 10.* The \_\_\_\_\_(4) agency pledged to introduce whatever legislation was necessary to solve the \_\_\_\_\_(1) crisis. The new legislation would include mandatory disclosure labels, extensive reporting, notification, and filing requirements (with a dozen new multipage forms) for the \_\_\_\_\_(1) industry, and random inspections by specially trained government inspectors.

Sellers of \_\_\_\_\_(1) will be required to post large signs in all-capital letters to disclose the

risk of \_\_\_\_\_(3) arising from the use of \_\_\_\_\_(1).

The new measures would be backed by civil and criminal penalties and a special system of administrative hearing officers to bypass the delays and congestion of the regular court system.

*Day 15.* Officials of the \_\_\_\_\_(1) industry said that to eliminate \_\_\_\_\_(1) or to replace it with a potentially safer substitute product or service would cost \_\_\_\_\_ trillion dollars. The chair of the federal \_\_\_\_\_(4) agency said this would be a small price to pay to save \_\_\_ lives a year, and castigated the \_\_\_\_\_(1) industry for trying to attach a price tag to human lives.

*Day 20.* Representative \_\_\_\_\_(5) expressed great concern at the research findings and lack of action by the federal \_\_\_\_\_(4) agency, and announced that the House Committee on \_\_\_\_\_(6) would hold televised hearings beginning immediately after \_\_\_\_\_(7) was completed.

When the \_\_\_\_\_(1) hearings began, they featured a parade of noted experts from the television, movie, and other entertainment industries.

*Day 25.* Even during the congressional hearings, the \_\_\_\_\_(1) crisis continued to mount. Record numbers of consumers—an ever-increasing stream of victims—reported shocking damage and injury from \_\_\_\_\_(1). The crisis grew. It was on the front page of every issue of every newspaper in the United States.

*Day 30.* A team of personal injury lawyers throughout the United States formed a steering committee to identify victims of \_\_\_\_\_(1); file lawsuits against the \_\_\_\_\_(1) industry; and conduct extended discovery to find out who in the \_\_\_\_\_(1) industry knew about the risk of \_\_\_\_\_(3); and why they did nothing about it.

The committee chair announced that advertisements would begin running immediately in major media throughout the United States seeking information, plaintiffs, and witnesses.

*Day 35.* The chair of the \_\_\_\_\_ Public Interest Research Group said his group intended to place the \_\_\_\_\_(1) crisis at the top of its list of priorities for the current year. The group endorsed the work of the plaintiffs' lawyers committee and promised to work closely with the plaintiffs' lawyers committee to serve the public interest in eliminating the health and environmental risks of \_\_\_\_\_(1).

In the meantime, shockingly, it was disclosed that the \_\_\_\_\_(1) industry had donated over \$1,000,000 to the political campaigns of members of Congress.

*Day 365.* Further studies reported that the original studies regarding the \_\_\_\_\_(1) crisis demonstrated that \_\_\_\_\_(1) actually had some significant health benefits. Other researchers found that they could not replicate the results originally reported by \_\_\_\_\_(2). In other words, the later researchers could not confirm in analysis of human populations the risks that had been demonstrated in rat-and-mouse studies.

The newer academic studies received national press coverage in two-paragraph "filler" articles at the end of the obituaries section of half a dozen minor small-town newspapers.

*Day 500.* Representative \_\_\_\_\_(5) was re-elected, based in part on his work regarding the \_\_\_\_\_(1) crisis.

The \_\_\_\_\_(1) litigation has taken on a life of its own. It was certified as a class action, but years of procedural skirmishing are projected before the matter will go to trial. Representatives of the \_\_\_\_\_(1) industry and the plaintiffs' committee are negotiating a settlement by which each plaintiff would receive a coupon good for 50¢ off their next purchase of \_\_\_\_\_(1) and one free day on a three-day car rental. As part of the settlement, all legal fees would be paid in full together with a premium to reflect the high quality and risky nature of the legal work.

The \_\_\_\_\_(1) inspectors at the federal \_\_\_\_\_(4) agency are now hard at work. They report with pride that they issue thousands of citations a year and that business has finally taken the \_\_\_\_\_(1) crisis seriously. The agency's \_\_\_\_\_(1) regulations now fill thousands of pages and thoroughly govern every aspect of the \_\_\_\_\_(1) industry.

*Day 600.* The last American company still in the \_\_\_\_\_(1) industry has now shut down and filed under Chapter 11 of the federal bankruptcy code. A brisk industry in the importation of \_\_\_\_\_(1) has begun to form.